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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Ebert  
SERIAL NO.: 10/689,230  
FILED: 10/20/2003  
GROUP ART: 3676  
EXAMINER: Estremsky, Gary Wayne  
FOR: Door Lever Construction With Fragile Handle

Mail Stop After Final  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REPLY BRIEF

Dear Sir:

In response to the Examiner's Answer dated June 21, 2006, Appellant now submits this concise Reply Brief.

Arguments With Regard to the Anticipation Rejection of Claim 1

The Examiner argues that claim 1 is properly anticipated by the Tokarz reference in that the limitations with regard to the claimed invention being for a door handle are simply intended use.

However, the claim specifically does require there be a shank to be attached to a door. A shank to be attached to a door would have distinct structure than a faucet handle.

Throughout the Tokarz patent disclosure, it is repeatedly stated that it is a faucet handle. Further, the patent is clear that the faucet handle is utilized to control the flow of

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water through a valve. The structure would not meet the limitation of a "shank" for being attached to a door.

The examiner argues that by picking and choosing amongst the several materials mentioned by Tokarz, he can meet the "more fragile" handle limitation. While a good number of materials are disclosed, no specific combination of materials is mentioned which would meet the limitations that the handle is formed of a material that is more fragile than the material forming the shank. In fact, Tokarz could have any number of possible combinations, and nothing specifically discloses a combination to meet this limitation.

In addition, the examiner now points to the prior patent to Gaffney. The examiner asserts that Gaffney shows that handles for faucets and handles for doors are equivalents, or perhaps replacements for each other. First, a reference such as this has no place in an anticipation rejection. More importantly, whatever Gaffney may think about its handles, the same is not true of Tokarz. Tokarz, throughout its disclosure, specifically limits its intent to faucet handles which control the flow of water.

Simply, the rejection of this claim is improper.

#### Arguments With Regard to Claims 3 and 7

The examiner argues that the combination of Tokarz and Shaw is proper, and would be motivated to disguise or cover fasteners for the sake of aesthetics. However, the main goal of Tokarz is to reduce the number of components. See, for example, col. 1, lines 44-47. To modify Tokarz to include the Shaw cover would include several additional components, as had been previously mentioned in the main brief. This would destroy this main goal of Tokarz. As such, the combination is not proper.

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**Arguments With Regard to Claim 4**

The examiner speaks of geometric calculations based upon measurements of the Tokarz reference. However, it is improper to measure patent drawings. This is basic patent law. There is nothing that indicates Tokarz meets the claim. Further, while an examiner is allowed to broadly read claims, he cannot arbitrarily take sections of a reference and argue that those arbitrary sections can be relied upon to meet claim limitations. Simply, and also for reasons detailed in the main brief, claim 4 is allowable.

**Arguments With Regard to Claims 10 and 11**


The examiner argues that the Tokarz patent modified by Shaw would "inherently" compress the handle.

Again, the examiner is not allowed to allege "inherent" features without proof. There is nothing in this reference which would show that Shaw would actually provide compression to the handle. This would require several features such as, for instance, the cover being less malleable than the handle. There is simply nothing within Shaw that would suggest such a feature could be obtained.

**CLOSING**

For the reasons set forth above, and for the reasons found in the main brief, the rejection of all claims is improper and should be reversed. Such action is earnestly solicited.

Respectfully submitted,



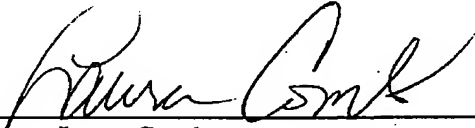
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CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States patent and Trademark Office, fax number (571) 273-8300, on August 21, 2006.

  
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Laura Combs

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